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Washington, D.C.

Calendar No. 67

101ST CONGRESS
1st Session

SENATE

REPORT
101-29

AUTHORIZING APPROPRIATIONS FOR THE FEDERAL ELECTION COMMISSION FOR FISCAL YEAR 1990

MAY 18 (legislative day, JANUARY 3), 1989.—Ordered to be printed

Mr. FORD, from the Committee on Rules and Administration, submitted the following

REPORT

[To accompany S. 1074]

The Committee on Rules and Administration, having considered an original bill (S. 1074) to authorize appropriations for the Federal Election Commission for fiscal year 1990, and for other purposes, reports favorably thereon and recommends that the bill do pass.

PURPOSE OF THE BILL

The bill would authorize appropriations for the Federal Election Commission of $15,330,000 for fiscal year 1990, the amount of the Commission's amended base budget request. This sum is less than the $15,433,000 authorized for fiscal year 1989. Excluding the nonrecurring item in last year's budget, the fiscal year 1990 request is 6.2 percent more than the fiscal year 1989 appropriation. The FEC was unable to agree with the OMB, which proposed an FEC budget of $14,257,000 for fiscal year 1990.

The bill would exempt the FEC from the 1988 amendments to the Inspector General Act of 1978. The exemption would save the FEC $121,000 for fiscal year 1990.

In view of the bipartisan structure of the Commission and its unique mission, the committee believes it is unwise to require the FEC to establish an Office of the Inspector General. The committee directs the FEC to apply the amount saved by the exemption to a public education program promoting the tax checkoff for the presidential campaign fund. Projections show that, while there will probably be sufficient funds for the 1992 election, there will be a serious deficit by 1996. The committee notes that the program was

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proposed in response to a suggestion made by the committee at last year's hearing.

Committee Hearing

At a hearing on April 6, 1989, the committee received testimony on the fiscal year 1990 budget request.

Commission witnesses stated that the OMB proposed an FEC budget of $14,257,000 and that three appeals to OMB were rejected without elaboration. The committee was told that appropriating the OMB amount would result in deep cuts in FEC staff and mandated programs. It was pointed out that the FEC had absorbed costs in previous years to reach agreement with the OMB but that the FEC could not continue accommodating at the expense of its mandated programs. It was explained that the FEC needs a supplemental appropriation this year in order to meet current obligations.

The committee was informed that the Commission's work load is increasing dramatically and has more than doubled since 1980. It was stated that the fiscal year 1990 amended base budget request is needed to continue operations at current levels, to meet unanticipated increases in health insurance costs and to fund the Office of the Inspector General. Commission witnesses said that if the FEC does not receive the amount requested, it must take immediate steps to cut back its service and programs.

In addition to its base request, Commission witnesses presented an enhanced budget request of $15,768,000. They proposed five program additions that "reflect the Commission's experiences in increasing the speed and clarity of disclosure and enforcement, and promoting of a better understanding of campaign finance."

The need for a public education program promoting the tax checkoff for the presidential election campaign fund was discussed. The committee was informed that FEC projections show that the fund will have a deficit of at least $72 million in 1996. If the incumbent president runs in 1992 and there are a limited number of candidates, the fund will probably be sufficient for the 1992 presidential race.

Committee Action

On May 17, 1989, the Committee on Rules and Administration held a markup on the FEC authorization bill. The accompanying original bill was passed by a record vote of 10–1 and was ordered favorably reported by the committee.

Committee Rollcall Vote

In compliance with paragraph 7 (b) and (c) of Rule XXVI of the Standing Rules of the Senate, the record of the rollcall vote in the Committee on Rules and Administration during its consideration of the accompanying original bill, to report it favorably, was:

YEAS—10	NAYS—1
Mr. Inouye	Mr. Helms
Mr. DeConcini	
Mr. Dodd	
Mr. Adams	
Mr. Stevens	
Mr. Hatfield	
Mr. McClure	
Mr. Garn	
Mr. McConnell	
Mr. Ford	

The Chairman presented the proxies of Mr. Moynihan and Mr. Gore in favor of the bill.

Cost Estimate

In compliance with paragraph 11(a) of Rule XXVI of the Standing Rules of the Senate, the estimate of costs of this measure prepared by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act, is as follows:

CONGRESSIONAL BUDGET OFFICE

COST ESTIMATE

May 17, 1989

1. BILL NUMBER: Not yet assigned.

2. BILL TITLE:

A bill to authorize appropriations for the Federal Election Commission for fiscal year 1990, and for other purposes.

3. BILL STATUS:

As ordered reported by the Senate Committee on Rules and Administration, May 17, 1989.

4. BILL PURPOSE:

The bill authorizes the appropriation of $15.3 million to the Federal Election Commission (FEC) for fiscal year 1990. The 1989 budget authority is currently $15.4 million, and President Reagan's budget includes $14.3 million for 1990.

The bill also would repeal a recently enacted provision that requires the FEC to have its own Inspector General.

5. ESTIMATED COST TO THE FEDERAL GOVERNMENT:

(by fiscal year, in millions of dollars)

	1990	1991	1992	1993	1994
Authorization Level	15.3	---	---	---	---
Estimated Outlays	13.8	1.5	---	---	---

Including outlays from prior years' appropriations to date, total outlays in 1990 would be about $15.3 million, assuming appropriation of the authorized amount.

The costs of this bill fall within budget function 800.

Basis of Estimate:

This estimate assumes the amount authorized will be appropriated. The estimate of outlays is based on historical spending patterns.

Eliminating the position of Inspector General does not affect this estimate, because total spending is assumed to be determined by the authorization level.

6. ESTIMATED COST TO STATE AND LOCAL GOVERNMENTS: None.

7. ESTIMATE COMPARISON: None.

8. PREVIOUS CBO ESTIMATE: None.

9. ESTIMATE PREPARED BY: James Hearn (226-2860)

10. ESTIMATE APPROVED BY:

James L. Blum
Assistant Director
for Budget Analysis

REGULATORY IMPACT EVALUATION

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

OFFICE OF THE CHAIRMAN

May 15, 1989

The Honorable Wendell H. Ford
Chairman
Committee on Rules and
Administration
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to the Committee's request for information in connection with the Federal Election Commission's Fiscal Year 1990 authorization bill. Enclosed are responses to four questions dealing with the regulatory impact of Commission activities.

Sincerely,

Danny L. McDonald
Chairman

Enclosures

1. Q. An estimate of the number of individuals and businesses to be regulated by the Commission, and a determination of the groups and classes of such individuals and businesses.

A. The Commission regulates seven categories of persons and political committees: Presidential candidates and committees; candidates and committees engaged in races for House and Senate seats; party-related committees; non-party related political committees; individuals or committees making independent expenditures; delegates and delegate committees; and persons making expenditures for communication costs. The table which follows indicates the number of filers in each category, the number of reports and statements filed by each, and the gross receipts and expenditures for the period covering calendar year 1988.

Summary of Disclosure Files

	Total Filers Existing in 1988	Filers Terminated as of 12/31/88	Continuing Filers as of 12/31/88	Number of Reports and Statements in 1988	Gross Receipts in 1988	Gross Expenditures in 1988
Presidential	731	82	649	2,314	$266,832,210	$269,008,934
Candidates	398	41	357			
Committees	333	41	292			
Senate	1094	154	940	1,400	$163,708,129	$195,551,083
Candidates	555	77	478			
Committees	539	77	462			
House	5,318	832	4,486	7,289	$216,983,470	$219,771,572
Candidates	2,766	416	2,350			
Committees	2,552	416	2,136			
Party	538	86	452	3,972	$400,800,240	$412,302,595
Delegates	102	14	NA	108	0	$119,478
Nonparty	4,827	617	4,210	46,132	$218,840,474	$241,903,563
Labor committees	401	51	350			
Corporate committees	2008	206	1,802			
Membership, trade and other committees	2418	360	2,058			
Communication cost filers	173	NA	NA	167	NA	$4,336,897
Independent expenditures by persons other than political committees	163	NA	NA	299	NA	$358,863

2. Q. The Commission's opinion as to the economic impact of such regulations on the individuals, consumers and business affected.

A. The Act is so specific in its requirements that the major economic impact on affected individuals and organizations is directly imposed by the Act, not the implementing regulations.

3. Q. The Commission's opinion of the impact on the personal privacy of the individuals affected.

A. Because a purpose of the Federal Election Campaign Act is to provide for the disclosure of contributions and expenditures made in campaigns for Federal office, there is obviously some impact on privacy. Congress felt that this slight impact on privacy was warranted in order to promote the policy of disclosure. Again, it is the Act, rather than implementing regulations, which produces this result.

4. Q. A determination of the amount of additional paperwork that will result from regulations to be promulgated by the Commission during Fiscal Year 1989. This determination may include, but need not be limited to, estimates of the amount of time and financial costs required of affected parties, showing whether the effects of the authorization request could be substantial, as well as reasonable estimates of the recordkeeping requirements that may be associated with the authorization.

A. The following regulation is currently pending before Congress and will be promulgated by the Commission following the expiration of the legislative review period:

- Trade Association Solicitations (Transmitted March 10, 1989).

In addition, the Commission completed its consideration of the following petition for rulemaking:

- Ted Haley Congressional Committee (Application of post-election contribution limits)

Regulations that the Commission will probably promulgate during the remainder of FY 1989 or in FY 1990 include:

- Affiliation and Earmarking
- Debt Settlement
- Allocation Between Federal and Non-federal Accounts
- Bank Loans to Candidates and Political Committees

No additional paperwork burden or cost is here assessed that might be attributed to an Office of the Inspector General at the FEC.

As in the past, the Commission will place a high priority on the reduction of unnecessary paperwork. A major goal of the regulation projects mentioned above is to avoid imposing burdensome requirements upon those regulated by the Federal Election Campaign Act. (See attached memorandum regarding status of regulations projects.)

Agenda Document #88-120

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 4, 1988

MEMORANDUM

AGENDA ITEM
For Meeting of: Nov. 17, 1988

TO: The Commission

THROUGH: John C. Surina
Staff Director

FROM: Lawrence M. Noble
General Counsel

N. Bradley Litchfield
Associate General Counsel

Susan E. Propper
Assistant General Counsel

SUBJECT: Status of Regulations Projects

This memorandum reflects the status of regulations projects as of the end of FY 1988.

Project Completed

Ted Haley Congressional Committee - Petition for Rulemaking

The Commission published a Notice of Disposition, declining to initiate a rulemaking based on the petition, on September 15, 1988. 53 FR 35829.

Ongoing Projects

1. **11 CFR Part 100 (Bank Loans to Candidates and Political Committees)**

   This project is focused on devising a definition of when a bank loan is "made on a basis which assures repayment." The Commission considered a draft Notice of Proposed Rulemaking (NPRM) on April 14, 1988. At that meeting, the Commission requested a redraft of the NPRM and preparation of a possible new form to disclose more details regarding bank loan transactions. We are finalizing these documents and plan to bring them forward for Commission consideration early next year.

2. **11 CFR Parts 110 and 114 (Extensions of Credit and Debt Settlement)**

This project is an expansion of the non-corporate creditor project, and now includes issues relevant to debt settlement with corporate and non-corporate creditors. A draft NPRM was before the Commission at its meeting of June 30, 1988. The Commission requested substantial changes in the proposed approach and directed this Office to prepare a redraft. We expect to have a revised NPRM on the agenda in late November 1988.

3. **11 CFR 110.3 - 110.6 (Affiliation and Earmarking)**

The Commission considered a set of revised rules at its meetings of January 21 and 28, 1988. During the discussion on January 28, the Commission decided that each Commissioner's Office would like an opportunity to prepare proposals for consideration at a later meeting.

4. **National Right to Work Committee - Petition for Rulemaking**

This petition raises questions regarding the Commission's regulations at 11 CFR 114.3 and 114.4 in light of the Supreme Court's decision in FEC v. Massachusetts Citizens for Life, Inc., 107 S.Ct. 616 (1986) ("MCFL"). The Commission's Advance Notice of Proposed Rulemaking, published on January 7, 1988, expanded this inquiry to include a broad range of other issues raised by the MCFL decision. A hearing on the issues discussed in the ANPRM is scheduled for November 16, 1988.

5. **11 CFR Part 106 (Allocation Regulations)**

The Commission published a Notice of Inquiry on February 23, 1988 and a NPRM containing four alternative proposals on September 29, 1988. Comments on the NPRM are due on November 30, with a hearing scheduled for December 15, 1988.

6. **Miscellaneous Regulations Projects**

The Commission published a NPRM in the first of these projects on September 15, 1988. Subjects covered included the exemption for subsistence expenses incurred by paid staff while traveling under the Act's transportation exemption; disclaimer notices for solicitations by unauthorized committees; and trade association solicitation of subsidiary corporations. No comments were received on

this Notice. We plan to seek Commission approval of a final version of these rules in November 1988. If the Commission approves the final rules, we expect to finalize the Explanation and Justification for Commission consideration early next year.

7. 11 CFR Part 111 (Compliance Procedures)

This project is intended as a review of the Commission's compliance procedures. We will finish working on a draft Notice of Rulemaking when other higher priority projects are closer to completion.

8. 11 CFR Parts 102 and 104 (Recordkeeping and Reporting)

This project is a review of the recordkeeping and reporting rules and is intended to address a wide variety of problem areas that could benefit from regulatory revision. As time permits, we will return to this review and complete preparation of a draft Notice of Proposed Rulemaking.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported by the Committee on Rules and Administration, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

SECTION 439c OF TITLE 2, UNITED STATES CODE

AUTHORIZATION OF APPROPRIATIONS

SEC. 439c. There are authorized to be appropriated to the Commission for the purpose of carrying out its functions under this Act, and under chapters 95 and 96 of title 26, not to exceed $5,000,000 for the fiscal year ending June 30, 1975. There are authorized to be appropriated to the Commission $6,000,000 for the fiscal year ending June 30, 1976, $1,500,000 for the period beginning July 1, 1976, and ending September 30, 1976, $6,000,000 for the fiscal year ending September 30, 1977, $7,811,500 for the fiscal year ending September 30, 1978, [and] $9,400,000 (of which not more than $400,000 are authorized to be appropriated for the national clearinghouse function described in section 438(a)(10) of this title) for the fiscal year ending September 30, 1981, *and $15,330,000 for the fiscal year ending September 30, 1990.*

SECTION 8E OF THE INSPECTOR GENERAL ACT OF 1978

REQUIREMENTS FOR FEDERAL ENTITIES AND DESIGNATED FEDERAL ENTITIES

SEC. 8E. (a) Notwithstanding section 11 of this Act, as used in this section—

(1) * * *

(2) the term "designated Federal entity" means ACTION, Amtrack, the Appalachian Regional Commission, the Board of Governors of the Federal Reserve System, the Board for International Broadcasting, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Corporation for Public Broadcasting, the Equal Employment Opportunity Commission, the Farm Credit Administration, the Federal Communications Commission, the Federal Deposit Insurance Corporation, [the Federal Election Commission,] the Federal Home Loan Bank Board, the Federal Labor Relations Authority, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Legal Services Corporation, the National Archives and Records Administration, the National Credit Union Administration, the National Endowment for the Arts, the National Endowment for the Humanities, the National Labor Relations Board, the National Science Foundation, the Panama Canal Commission, the Peace Corps, the Pension Benefit Guaranty Corporation,

the Securities and Exchange Commission, the Smithsonian Institution, the Tennessee Valley Authority, the United States International Trade Commission, and the United States Postal Service;

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